

### **REMARKS**

Applicant has reviewed the Non-Final Office Action mailed on August 15, 2007, and the references cited therewith. This first reply is being filed within four months of the mailing date of the Non-Final Office Action.

Claims 1, 4-5, 11-12, 19, 22, and 28 are amended. Claim 16 remains cancelled. Claim 3 is now cancelled and its limitations have been brought into claim 1. The amendments to claims 1, 4-5, 11-12, 19, 22, and 28 are supported by Figures 1 and 36-40, and elsewhere in the original specification. No new matter is added.

Claims 6-9 currently are withdrawn based on the restriction requirement of April 7, 2005. Applicant respectfully submits, however, that as generic claim 1 now appears in condition for allowance, claims 6-9, which depend on claim 1, should be recombined with the elected claims and examined (claims 1-5 and 10-28). Reconsideration and allowance of claims 6-9 is respectfully requested.

As a result, claims 1-2, 4-15, and 17-28 are now pending in the present application. Please charge any additional claim fees, other required fees, or credit overpayment to Deposit Account No. 502931.

### ***Claim Rejections – USC § 112***

Regarding Section 2 of the August 15, 2007, Office Action: Claims 1, 3-5, 10-12 and 28 were rejected by the Examiner under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As a first matter, Applicant again notes that claim 3 has been cancelled and its limitations have been added to claim 1. In addition, Applicant has amended claims 1 and 11 such that they refer specifically to a vertical centerline of the gun. In claim 1, Applicant amended the first sight indicator "to be at a first displacement from a vertical centerline of the gun," and the second sight indicator "to be further from the vertical centerline of the gun", where both indicators are "along a first direction that extends at a nonzero angle from the vertical centerline of the gun". In claim 11, Applicant amended the seventh sight indicator "to be at a fourth displacement from the

vertical centerline of the gun", and the fifth sight indicator "to be further from the vertical centerline of the gun," where both indicators are "along a second direction that extends at a nonzero angle from the vertical centerline of the gun." Applicant respectfully submits that claims 1 and 11, along with dependent claims 4-10, 12, and 28 (all of which depend on claim 1), meet the requirements of 35 U.S.C. § 112, second paragraph, for particularly pointing out and distinctly claiming the subject matter. Accordingly, reconsideration and withdrawal of the rejection and an early indication of allowance is respectfully requested.

### ***Claim Rejections – USC § 102***

Regarding Section 4 of the August 15, 2007, Office Action: Claims 1, 4, and 19-22 were rejected by the Examiner under 35 U.S.C. § 102(b) as anticipated by Pohl (U.S. Patent No. 1,421,553; hereinafter "*Pohl*"). Applicant has amended claims 1, 4, 19, and 22.

Regarding claim 1, Applicant has cancelled claim 3 (which was previously indicated by the Examiner as allowable), and has added the limitations from claim 3 into claim 1. Therefore, Applicant respectfully submits that claim 1 and its respective dependent claims (4-5, 10-12, and 28) appear to be in condition for allowance. Accordingly, reconsideration and withdrawal of the rejection and an early indication of allowance is respectfully requested.

Regarding claim 19, Applicant has amended this claim to further clarify the first direction, as suggested by the Examiner during the October 2, 2007, Examiner Interview, to include:

"means on the gun sight for sighting a flying target through one of at least three substantially enclosed outlines of differing sizes along a first direction from the gunbarrel, **wherein the first direction is a straight linear direction that intersects the gunbarrel**, to allow positioning of the gunbarrel to compensate for a distance to the flying target and for a motion of the flying target" (emphasis added to indicate language suggested by the Examiner).

Accordingly, Applicant respectfully submits that claim 19 and its respective dependent claims (20-22) appear to be in condition for allowance. Reconsideration and withdrawal of the rejection and an early indication of allowance is respectfully requested.

### ***Claim Rejections – USC § 103***

Regarding Section 7 of the August 15, 2007, Office Action: Claims 10 and 12 were rejected by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over *Pohl* in view of *Castilla* (U.S. Patent No. 4,512,183; hereinafter “*Castilla*”). Applicant has amended claim 12 solely to clarify antecedent basis.

Regarding claim 10, and its dependent claim 12, both depend from claim 1 and appear to be in condition for allowance for the reasons cited above for claim 1. Accordingly, claims 10 and 12 appear to be in condition for allowance, and reconsideration and an early notice of allowance are respectfully requested.

### ***Allowable Subject Matter***

Regarding Section 9 of the August 15, 2007, Office Action: Claims 2, 13-15, 17-18, and 23-27 were allowed.

Regarding Section 10 of the August 15, 2007, Office Action: Claims 3, 5, 11, and 28 were indicated as allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office Action and to include all of the limitations of the base claim and any intervening claims. As mentioned above, claim 3 has been cancelled and its limitations have been added to claim 1 such that claim 1 now appears to be in condition for allowance. Claims 5, 11, and 28 depend from claim 1, and appear to be in condition for allowance for the reasons cited above for claim 1 (including the amendments made to overcome the 35 U.S.C. 112, 2<sup>nd</sup> paragraph, rejections). Accordingly, reconsideration and an early notice of allowance are respectfully requested.

### CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney Charles A. Lemaire (952-278-3501) to facilitate prosecution of this application.

The number of independent and total claims has not changed. If necessary, please charge any additional fees or credit overpayment to Deposit Account Number 502931.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8(a)(1)(i)(C) (paragraph C being a new amendment to Section 1.8 published in the **Federal Register**, Vol. 72, No. 14, Tuesday, Jan. 23, 2007, page 2773): The undersigned hereby certifies that this document is being electronically filed via the U.S. Patent Office's EFS filing system on this **2nd day of October, 2007, Central Time**, addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: /Charles A. Lemaire/  
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